

12/18/2008



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1 BEFORE THE ARIZONA CORPORATION

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3 IN THE MATTER OF THE APPLICATION)  
 4 OF THE ARIZONA DEPARTMENT OF )  
 5 TRANSPORTATION TO UPGRADE A )  
 6 CROSSING OF ALLIANCE LUMBER, )  
 7 L.L.C./THE UNION PACIFIC )  
 8 RAILROAD AT RITTENHOUSE ROAD IN )  
 9 QUEEN CREEK, ARIZONA, AAR/DOT )  
 10 NO. 741-840-E. )

DOCKET NO.  
 RR-03639A-08-0505

Evidentiary Hearing

7

8

9 AT: Phoenix, Arizona

10 DATE: December 18, 2008

11 FILED: January 7, 2009

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REPORTER'S TRANSCRIPT OF PROCEEDING

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Arizona Corporation Commission

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1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Corporation Commission, in a conference room of  
4 said Commission, 1200 West Washington Street, hearing  
5 Room 1, Phoenix, Arizona, commencing at 9:34 a.m. on the  
6 18th day of December, 2008.

7

8 BEFORE: MARC E. STERN, Administrative Law Judge

9 APPEARANCES:

10 For the Arizona Corporation Commission Staff:

11 Legal Division  
12 By Ms. Nancy Lee Scott  
13 1200 West Washington  
14 Phoenix, Arizona 85007

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1 (Exhibit S-1 was marked for identification.)

2 ALJ STERN: This hearing is now open in the  
3 matter of the Application of the Arizona Department of  
4 Transportation to Upgrade a Crossing Of Alliance Lumber,  
5 L.L.C./the Union Pacific Railroad at Rittenhouse Road in  
6 Queen Creek, Arizona, AAR/DOT NO. 741-840-E in Docket  
7 Number RR-03639A-08-0505.

8 My name is Marc Stern. I'll preside over this  
9 proceeding today and enter a Recommended Opinion and  
10 Order to the Commission for further disposition.

11 At this time we'll take appearance on behalf of  
12 ADOT. Is anyone here?

13 No. Okay. On behalf of Commission Staff?

14 MS. SCOTT: Nancy Scott, Your Honor, appearing  
15 on behalf of Commission Safety Division.

16 ALJ STERN: Sir, I see you sitting at the  
17 table. I don't know who you are and you are not from  
18 ADOT, so maybe you are with the lumber company?

19 MR. CARR: You have got it.

20 ALJ STERN: Are you an attorney?

21 MR. CARR: No, I'm not.

22 ALJ STERN: So you can't really represent the  
23 lumber company, you are just here to observe today?

24 MR. CARR: Basically, yes.

25 ALJ STERN: Unless she is calling you as a

1 witness. What is your name, though?

2 MR. CARR: Fred Carr.

3 ALJ STERN: All right, Ms. Scott, are you ready  
4 to proceed?

5 MS. SCOTT: We are.

6 ALJ STERN: Okay. Go ahead.

7 MS. SCOTT: Staff calls Chris Watson.

8 ALJ STERN: Mr. Watson, be sworn in.

9

10 CHRIS WATSON,  
11 called as a witness on behalf of Staff, having been duly  
12 sworn by the Certified Reporter to speak the truth and  
13 nothing but the truth, was examined and testified as  
14 follows:

15

16 DIRECT EXAMINATION

17 BY MS. SCOTT:

18 Q. Mr. Watson, would you state your name and spell  
19 your last name, please.

20 A. Chris Watson, W-a-t-s-o-n.

21 Q. Where do you work?

22 A. Arizona Corporation Commission Railroad Safety  
23 Section.

24 Q. What is your position there and your  
25 responsibilities?

1           A.    I'm the Assistant Supervisor as well as the  
2   Grade Crossing Inspector for the State of Arizona.

3           Q.    Is one of your responsibilities to evaluate  
4   applications such as this for improvements at crossings?

5           A.    Yes, it is.

6           Q.    As part of your evaluation of the application in  
7   this case, did you do an investigation and prepare a  
8   report with your findings and recommendations?

9           A.    Yes, I did.

10          Q.    You see before you what has been marked as  
11   Staff's exhibit S-1. Is that the report that you  
12   prepared in this case?

13          A.    Yes, it is.

14          Q.    Do you have any corrections you would like to  
15   make at this time?

16          A.    Just one on page two under, let's see, third  
17   paragraph, speed limit. In the report it states it is 50  
18   miles per hour. We have been informed that it is  
19   actually 45 miles per hour. That is the only correction  
20   I would make.

21          Q.    Any other additions or modifications?

22          A.    No.

23          Q.    Do you accept this document as your sworn  
24   testimony here today?

25          A.    Yes, I do.

1 MS. SCOTT: Your Honor, Staff offers exhibit S-1  
2 into evidence.

3 ALJ STERN: Okay. It is noted there is no  
4 objection. S-1 is admitted. Go ahead.

5 Q. BY MS. SCOTT: Would you describe the general  
6 area where this crossing is located?

7 A. This crossing is located on the outskirts of the  
8 Town of Queen Creek in a rural area, farm land.

9 Q. What is the size of the road here?

10 A. It is a two lane, like I said, rural roadway.

11 Q. Who is the road authority?

12 A. Queen Creek.

13 Q. This track where it crosses Rittenhouse Road is  
14 actually an industrial track, is that correct?

15 A. That is correct.

16 Q. What does that mean, an industrial track?

17 A. In this case Alliance Lumber is the owner of the  
18 track. Union Pacific serves Alliance Lumber on this  
19 industrial track. Union Pacific's right of way ends at  
20 the clearance point of their main line and the industrial  
21 track.

22 Q. Would that be as indicated on exhibit A to the  
23 Staff Report?

24 A. Correct.

25 Q. So where a spur track comes off the main track



1 and at the clearance point, then the ownership goes to  
2 the lumber company?

3 A. Correct.

4 Q. How is this project going to be funded?

5 A. This is a FHWA-130 project.

6 Q. What does that mean, generally?

7 A. Every year Staff for the Commission has the task  
8 of putting an array together of crossings in the state  
9 that we believe along with ADOT and FHWA the railroads  
10 that need to be upgraded. It can only be used on public  
11 crossings with federal money.

12 Q. So this particular crossing at some point was  
13 placed on the array?

14 A. In 2006.

15 Q. Who completes the actual work for the  
16 improvements?

17 A. Generally, the railroads will do the work.

18 Q. Who is doing it in this case, do you know?

19 A. I don't off the top of my head. It would be  
20 whoever the Applicant, Alliance Lumber, chooses. It  
21 will be a --

22 Q. A contractor?

23 A. Yes, a contractor.

24 Q. Then whoever completes the work is reimbursed by  
25 the Department of Transportation?

1 A. Correct.

2 Q. To the best of your knowledge, was the proper  
3 Public Notice made in this case?

4 A. Yes, it was.

5 Q. Have you been in communication with the other  
6 interested parties?

7 A. I have.

8 Q. I would like to ask you to describe just the  
9 existing characteristics of this crossing. You already  
10 know the speed limit is 45. What is the average daily  
11 traffic count?

12 A. We got that from Queen Creek. I believe their  
13 counts were from 2005, if I'm not mistaken, 27,151. I'm  
14 sorry. April of 2008.

15 Q. And that was 27,151?

16 A. 151.

17 ALJ STERN: Per day?

18 THE WITNESS: Yes. ADT.

19 Q. BY MS. SCOTT: Were you able to obtain a level  
20 of service at this crossing?

21 A. No, we were not.

22 Q. Do you know why that is?

23 A. I don't. In the data requests that went out  
24 through e-mail, there was nothing provided back.

25 Q. Again, this is a rural area and the track just

1 serves the company?

2 A. It is a rural area. There is quite a bit of  
3 traffic on that road. It is highly traveled.

4 Q. Is there any history of accidents at this  
5 crossing?

6 A. No, no accidents.

7 Q. What are the alternative routes?

8 A. To the east is Riggs Road about half a mile, and  
9 to the west is Ocotillo Road about two and-a-half miles.

10 Q. Are those at grade or separated grade?

11 A. At grade crossings.

12 Q. What kind of train movement do we have at those  
13 crossings?

14 A. The speed limit on the industrial track is ten  
15 miles per hour, and information given to us said about  
16 four to six movements per week, depending on, you know,  
17 business. Right now, business is down, so the number of  
18 spots is down.

19 Q. There would be no passenger trains on this  
20 track?

21 A. No.

22 Q. What kind of existing traffic control or safety  
23 devices exist?

24 A. Right now there is just passive devices,  
25 crossbucks.

1 Q. What are the proposed improvements?

2 A. The proposed improvements will be 12-inch LED  
3 flashing lights and gates as well as concrete surface.

4 Q. So these will be considered substantial  
5 improvements over crossbucks?

6 A. Yes, they would.

7 Q. In your opinion, will these improvements  
8 considerably improve the safety at this crossing?

9 A. Absolutely.

10 Q. Do you believe that they are reasonable and in  
11 the public interest?

12 A. I do.

13 Q. Is this the type of crossing that would be  
14 considered for grade separation?

15 A. No.

16 Q. And the reasons for that?

17 A. Well, it is an industrial track for one. The  
18 train movements are low. The traffic, I think, will  
19 increase in the future and we may need to look at it at  
20 that time. But I don't think that a grade separation  
21 would be necessary here.

22 Q. What is the estimated cost of completing this  
23 project?

24 A. Estimated cost is \$231,015.

25 Q. Again, that is funded 100 percent through 130

1 funding?

2 A. Correct.

3 Q. Do you believe that cost estimate is  
4 reasonable?

5 A. Yes.

6 Q. Do you know what the plans are for maintaining  
7 the new warning devices?

8 A. It is my understanding that Alliance Lumber and  
9 Union Pacific have come to some kind of an agreement  
10 about Union Pacific maintaining the devices after it is  
11 installed. I don't know the logistics of all of this.

12 Q. But that would be some agreement probably  
13 between the railroad and the lumber company?

14 A. Correct.

15 Q. So, overall, your recommendation is that this  
16 project be approved as proposed?

17 A. Yes.

18 MS. SCOTT: I have nothing further, Your Honor.

19

20 EXAMINATION

21 BY ALJ STERN:

22 Q. If I understand the testimony you gave this  
23 morning, the railroad does not do this upgrade because it  
24 is an industrial spur track; is that the way it works?

25 A. Because it is privately owned, right.

1 Q. Privately owned. So who selects who does the  
2 work? The owner of the track then?

3 A. Yes. I'm sure the company put out some bids and  
4 got some estimates, and then they would be able to choose  
5 who they wanted to do the work.

6 Q. Then does ADOT pay the contractor directly, or  
7 do they just reimburse the owner of the track?

8 How does the pay structure work? Do you know?

9 A. I don't want to say.

10 Q. The specific mechanics --

11 A. I don't know, specifically.

12 Q. -- whether it is direct, but at least it is  
13 going to cost \$231,000 to do it, and somehow, somehow it  
14 comes out of the ADOT funds from the Federal Highway  
15 Administration?

16 A. That is correct.

17 Q. The installation is going to have 12-inch LED  
18 flashing lightS, gates -- are there going to be any  
19 bells?

20 A. I guess there will be bells.

21 Q. And a concrete crossing surface?

22 A. Correct.

23 Q. What kind of surface is there now?

24 A. I think it is asphalt, old torn-up asphalt.

25 Q. So they are improving that with the concrete

1 surface?

2 A. Correct.

3 ALJ STERN: I have no other questions that I can  
4 think of offhand.

5 Q. BY MR. STERN: Do you know if there are any  
6 plans to widen Rittenhouse Road in the near future at  
7 all?

8 A. I have heard rumors. I don't know a time  
9 frame.

10 ALJ STERN: I guess that is it. Do you have any  
11 re-direct?

12 MS. SCOTT: No, Your Honor.

13 ALJ STERN: Thank you. I guess that will  
14 conclude testimony.

15 Sir, I know you are here as an observer,  
16 Mr. Carr. Do you have any comments you want to make,  
17 Public Comment?

18 MR. CARR: No, but it is Mountain States  
19 Contracting that is doing the work.

20 ALJ STERN: What is your position with the  
21 lumber company?

22 MR. CARR: Human Resources. Director of Human  
23 Resources. Risk Manager.

24 ALJ STERN: Mountain States Contracting?

25 MR. CARR: Yes.

1 ALJ STERN: I think that I have seen their name  
2 on some of these contracts before where there has been a  
3 private spur; isn't that correct?

4 MR. CARR: You have two choices, basically, in  
5 the State of Arizona.

6 ALJ STERN: But Mountain States is the company  
7 that is going to do it?

8 MR. CARR: Yes.

9 ALJ STERN: I assume your employer is behind  
10 this project?

11 MR. CARR: 100 percent. The safety factor is  
12 the big issue there.

13 ALJ STERN: Okay. I guess that is it. Anything  
14 else, Ms. Scott?

15 MS. SCOTT: No.

16 ALJ STERN: Thank you for your time today. That  
17 concludes today's hearing and we will issue a Recommended  
18 Order to the Commission for final disposition.

19 (The hearing was concluded at 9:45 a.m.)  
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22  
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24  
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12/18/2008


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1 STATE OF ARIZONA )  
2 ) ss.  
3 COUNTY OF NAVAJO )  
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6 I, SHERYL BARKER, Certified Court Reporter  
7 No. 50185 for the State of Arizona, do hereby certify  
8 that the foregoing printed pages constitute a full, true  
9 and accurate transcript of the proceedings had in the  
10 foregoing matter, all done to the best of my skill and  
11 ability.  
12

13 WITNESS my hand this 30th day of December, 2008.  
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